

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

TERRENCE LAMONT FILEDS,)	
)	
Petitioner,)	
)	
vs.)	No. 1:05 CR 00158 RWS
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

**DEFENDANT'S SUPPLEMENTAL OBJECTION TO PRESENTENCE
INVESTIGATION REPORT**

COMES NOW Defendant, by and through the undersigned counsel, and hereby continues his objection to the Final Resentence Report, filed on June 24, 2016.

1. On June 14, 2016, counsel objected to the use of Mr. Fields' prior conviction for Missouri Robbery 2nd Degree as a predicate offense for Armed Career Criminal classification under Title 18 U.S.C. §924(e) (Doc. #77). Counsel requested this Court hold in abeyance its ruling in the instant case, as a nearly identical issue was currently on Appeal in the 8th Circuit, *United States v. Iyuan Bell*, 840 F3d 963.

2. Since that time, the 8th Circuit Court of Appeals has decided and issued a mandate in the *Bell* case. Its holding was that, for Career Offender purposes, Missouri Robbery Second Degree does not qualify as a crime of violence. *Bell*.

3. Mr. Fields contends the definition of "violent felony" as used in 924(e) is interchangeable with the definition of "crime of violence" as used in the United States Sentencing Guidelines. The Eighth Circuit has held "the definition of 'crime of violence' in U.S.S.G. § 4B1.2(a) is 'virtually identical' to the definition of a 'violent felony' in the Armed Career

Criminals Act (ACCA), 18 U.S.C. § 924(e)(2)(B)(i).” *Ortiz v. Lynch*, 796 F.3d 932, 935 (8th Cir. 2015).

4. The Final Resentencing Report was filed before the *Bell* decision, and should therefore be revised to remove Mr. Fields from Armed Career Criminal status. *Bell* makes it clear that Missouri Robbery 2nd Degree does not meet the qualifications for a crime of violence and therefore this Court should likewise determine it does not meet the qualifications for the term “violent felony.”

WHEREFORE, counsel requests this Court order a resentencing hearing for Mr. Fields based upon the arguments above, and sentence him in accordance with the same.

Respectfully submitted,

/s/Michael A. Skrien

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2017, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Keith D. Sorrell, Assistant United States Attorney.

/s/Michael A. Skrien

Michael A. Skrien